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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Rabbani et al.

Serial No. 08/978,637

Filed: November 25, 1997

Title: COMPOSITION OF MATTER COMPRISING  
PRIMARY NUCLEIC ACID COMPONENT  
(As Previously Amended)

Group Art Unit: 1635

Examiner: Mary M. Schmidt

527 Madison Avenue, 9th Floor  
New York, New York 10022  
June 18, 2002**FILED BY EXPRESS MAIL**Commissioner of Patents and Trademarks  
Washington, D.C. 20231**Box DAC**Attention: Office of Deputy Assistant Commissioner for Patents  
2121 Crystal Drive, Crystal Park 2 - Suite 913  
Arlington, Virginia 22202**RECEIVED**

JUN 24 2002

**OFFICE OF PETITIONS****PETITION UNDER 37 C.F.R. §1.137(b) TO REVIVE  
AN UNINTENTIONALLY ABANDONED APPLICATION**

Dear Sirs:

Applicants submit this Petition to the Commissioner under the provisions of 37 C.F.R. §1.137(b) to revive the above-identified application in which taking action was unintentionally delayed. A response to the previously issued December 19, 2000 Office Action was originally due on March 19, 2001, and that deadline was extended to June 19, 2001 by a Request For Extension Of Time (3 Months) filed on December 5, 2000. Upon the expected granting of this Petition, the accompanying response in the form of an Amendment Under 37 C.F.R. §1.115 will be considered as having been timely filed.

06/24/2002 BNGUYEN2 00000081 051135 08978637

01 FC:241 640.00 CH

**Enz-53(D5)**

Rabbani et al.

Serial No. 08/978,637

Filed: November 25, 1997

Page 2 (Petition Under 37 C.F.R. §1.137(b) to Revive An Unintentionally Abandoned  
Application – June 18, 2002)

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**EXPRESS MAIL CERTIFICATE**

"Express Mail" Label No. EL647884362US

Deposit Date June 18, 2002

I hereby certify that this paper and the attachments  
herein are being deposited with the United States  
Postal Service "Express Mail Post Office to  
Addressee" service under 37 CFR 1.10 on the date  
indicated above and is addressed to the  
Commissioner of Patents and Trademarks,  
Washington DC 20231.

\_\_\_\_\_  
Ronald C. Fedus  
Reg. No. 32,567

\_\_\_\_\_  
Date

Rabbani et al.

Serial No. 08/978,637

Filed: November 25, 1997

Page 3 (Petition Under 37 C.F.R. §1.137(b) to Revive An Unintentionally Abandoned Application – June 18, 2002)

The above-identified application became unintentionally abandoned after June 19, 2001, which was the date that a response to the December 19, 2001 Office Action was originally due. A Communication was mailed on August 6, 2001 indicating that "[t]he request for suspension of action under 37 C.F.R. 1.103 has been approved. The suspension of action will terminate 03 months after date the request for suspension of action was filed." Subsequently, a second Communication was mailed on October 26, 2001 indicating that "Applicants' RCE filed June 19, 2001 is improper. Suspension mailed to applicant June 26, 2001 is not valid. See attached." A copy of the August 6, 2001 and October 26, 2001 Communications are attached as Exhibit 1.

It is hereby requested that this application be revived because the entire delay in filing the response to the December 19, 2001 Office Action until the filing of this Petition was unintentional. A Terminal Disclaimer To Accompany Petition is attached to this paper as Exhibit 2.

As indicated above, a response to the December 19, 2001 Office Action in the form of an Amendment Under 37 C.F.R. §1.115 is being submitted concurrently herewith and is attached as Exhibit 3.

The fee for filing a Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b) is \$640.00 for a small entity. Small entity status was previously established in this application and is still applicable. The Patent and Trademark Office is hereby authorized to charge Deposit Account No. 05-1135 for the requisite large entity fee of \$640.00. The Patent and Trademark Office is further authorized hereby to charge Deposit Account No. 05-1135 for any other fees required in connection with this Petition, the attached Amendment (Exhibit 3), or Terminal Disclaimer (Exhibit 2).

A duplicate copy of this Petition but without attached Exhibits 1-3 is also submitted herewith.

**Enz-53(D5)**

Rabbani et al.

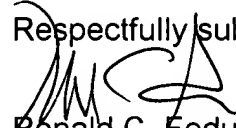
Serial No. 08/978,637

Filed: November 25, 1997

Page 4 (Petition Under 37 C.F.R. §1.137(b) to Revive An Unintentionally Abandoned  
Application – June 18, 2002)

Favorable action on this Petition is earnestly solicited.

Respectfully submitted,



Ronald C. Fedus

Registration No. 32,567

Attorney for Applicants

**ENZO THERAPEUTICS, INC.**

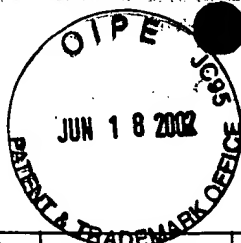
c/o Enzo Biochem, Inc.

527 Madison Avenue (9<sup>th</sup> Fl.)

New York, New York 10022

Telephone: (212) 583-0100

Fax: (212) 583-0150



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/979,636	11/25/97	RABBBANI	E ENZ-53(DIV-3)

038170  
ENZO DIAGNOSTICS, INC.  
C/O ENZO BIOCHEM INC.  
527 MADISON AVENUE 9TH FLOOR  
NEW YORK NY 10022

HZ12/1026

EXAMINER

SCHMIDT, M

ART UNIT PAPER NUMBER

1835

DATE MAILED: 07/26/01

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

*Applicant's RCE filed June 19, 2001  
is improper. Suspension mailed to  
applicant August 6, 2001 is not  
valid. SEE ATTACHED.*

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**JUN 24 2002**

**OFFICE OF PETITIONS**



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/978,636	11/25/97	RABBBANI	ENZ-53(DIV-3)

028170  
ENZO DIAGNOSTICS, INC.  
C/O ENZO BIOCHEM INC.  
527 MADISON AVENUE 9TH FLOOR  
NEW YORK NY 10022

HZ12/0806

EXAMINER
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SCHMIDT, M

ART UNIT	PAPER NUMBER
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1635

23

DATE MAILED: 08/06/01

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

THE REQUEST FOR SUSPENSION OF ACTION UNDER 37 CFR 1.103 HAS BEEN APPROVED. THE SUSPENSION OF ACTION WILL TERMINATE 03 MONTHS AFTER DATE THE REQUEST FOR SUSPENSION OF ACTION WAS FILED.

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JUN 24 2002

OFFICE OF PETITIONS

*K. Turner*  
KATRINA TURNER  
PATENT ANALYST



APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3 JUNE 19 2001 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Katrina Turner, Examining Group 1600

(703) 305-3413  
FORM PTO-2051 (Rev. 3/2001)

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JUN 24 2002

OFFICE OF PETITIONS